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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
C.A. # 04-CV-10521-GAO

* * * * * * * * * * * * * * * * *
BETTY ANNE WATERS, as Administratrix of the
Estate of KENNETH WATERS
Plaintiff,

vs.

TOWN OF AYER, NANCY TAYLOR-HARRIS,
In Her Individual Capacity, ARTHUR BOISSEAU,
In his Individual Capacity, BUDDY DECOT, In
His Individual Capacity, WILLIAM ADAMSON, in
His Individual Capacity, PHILIP L. CONNORS,
In His Individual Capacity, and JOHN DOE and
JANE DOES 1-16, in Their Individual Capacities,
Defendants.
* * * * *

DEPOSITION OF ROSEANNA BAGGESEN, a witness
called on behalf of the Defendants, pursuant to
Massachusetts Rules of Civil Procedure, before
Carolyn McGill, a Shorthand Reporter and Notary
Public in and for the Commonwealth of Massachusetts,
for Kopelman & Paige, P.C., 101 Arch Street, Boston,
Massachusetts, held at 340 Main Street, Worcester,
Massachusetts on Monday, July 23, 2007 commencing at
11:35 a.m.

Leavitt Reporting, Inc.

1 Q. Now, at some point did someone bring
2 you to a lawyer's office?

3 A. Oh, yes.

4 Q. Who brought you to a lawyer's office?

5 A. I believe it was Betty Anne, Cookie.

6 This is before the trial though.

7 Q. All right. That's your memory?

8 A. Yeah. It was before the trial. They
9 brought me to a -- I don't even remember his
10 name.

11 Q. Did you go to the office of a lawyer
12 by the name of DeSimone?

13 A. I believe that's it.

14 Q. There's an important part I shouldn't
15 forget. Did you testify at Mr. Waters' criminal
16 trial?

17 A. Yes, I did.

18 Q. Did you testify at that trial that he
19 had told you that he had killed that German
20 bitch?

21 A. Yes, I did.

22 Q. Was that the truth?

23 A. Yes, that was.

1 Q. After the trial was over did you begin
2 calling Ken Waters' mother?

3 A. Not that I recall.

4 Q. Did you begin calling her to say you
5 felt so sorry for lying at his trial?

6 A. Never. Never. Never.

7 Q. Did you lie at his trial?

8 A. Never.

9 Q. I wanted to place in front of you if I
10 could for a moment what I'm going to mark as
11 Exhibit One to today's deposition.

12 (Exhibit No. 1, Affidavit of
13 Roseanna C. Perry; so marked).

14 Q. I have placed in front of you what
15 I've marked as Exhibit A and you may see that
16 the first sheet is entitled Affidavit of
17 Roseanna C. Perry. Do you see that?

18 A. Yes.

19 Q. Would you go to the next sheet? And
20 can we agree that it is entitled Questioning of
21 Roseanna Perry by Herbert F. DeSimone, Junior,
22 Esquire?

23 A. Yes.

1 but does it appear to be your signature on this
2 first page of Exhibit One? Can you tell?

3 A. Yes.

4 Q. Is that your signature?

5 A. Sure looks like it. It looks very
6 sloppy.

7 Q. What were the circumstances under
8 which you signed the first page of Exhibit One?

9 A. This was at his office?

10 Q. Well, I don't know, Ma'am. That's
11 what I'm asking you.

12 A. Because I do remember I signed another
13 paper for some other investigator that used to
14 sit outside my house.

15 Q. Was that some years later? How many
16 Affidavits have you signed in connection with
17 this case?

18 A. Two.

19 Q. This is one?

20 A. Yes.

21 Q. Do you recall what the second one
22 said?

23 A. No.

1 A. No.

2 Q. You don't remember one way or the
3 other?

4 A. No.

5 Q. There's mention here of money and
6 jewelry. Do you have any current memory of Mr.
7 Waters discussing those with you, those items
8 with you?

9 A. I remember he said he took jewelry.

10 Q. The second paragraph up from the
11 bottom on page 1 please I believe states,
12 Roseanna -- it looks like a word is missing --
13 Roseanna absolutely sure Waters told her that he
14 had killed a woman in Ayer, Mass by stabbing
15 her. Do you see that?

16 A. Yes.

17 Q. At the time of giving this statement
18 you were absolutely sure that he had told you
19 that, correct?

20 A. Yes.

21 Q. And you remain so today, true?

22 A. Oh, true.

23 Q. It says here, Roseanna said Kenny

1 that this man was a police officer?

2 A. Well, I call them investigators,
3 detectives.

4 Q. Was the person you said was camped
5 outside your house someone you understood worked
6 for the Waters family?

7 A. Yes.

8 Q. What relation did that have to
9 testifying later in court? Could you explain
10 that please?

11 A. To me going to court?

12 Q. I will give you a cleaner question.
13 After you testified at Mr. Waters' criminal
14 trial were there times when a private
15 investigator was camped outside your house?

16 A. Yes.

17 Q. And at some point indeed did you come
18 back to Massachusetts to testify in court?

19 A. Yes.

20 Q. A second time, that being after the
21 trial?

22 A. I believe so.

23 Q. And do you know what role if any a

1 Rhode Island court played in your going to
2 Massachusetts?

3 A. I was ordered to go.

4 Q. Do you know why it was required that
5 you be ordered to go?

6 A. To be a witness.

7 Q. Had you been asked to go to this
8 hearing voluntarily before being ordered to do
9 so?

10 A. I believe so.

11 Q. By whom?

12 A. By the investigator.

13 Q. And did you understand at the time
14 that the hearing that you were being asked to
15 attend involved Mr. Waters' attempt to get a new
16 trial?

17 A. Yes.

18 Q. Now, between the time that you
19 testified at his trial which I'd suggest was May
20 of 1983 and July of 1985 when I would suggest
21 you testified at his motion for a new trial
22 hearing, please tell me the nature and extent of
23 your contact with the Ayer Police Department.

1 A. (Nodding) .

2 Q. Despite your fear you did testify to
3 the admission at trial?

4 A. Yes.

5 Q. Is that because you wouldn't perjure
6 yourself?

7 A. I would not perjure myself.

8 Q. When did you first learn that Ken
9 Waters was getting out of jail?

10 A. I didn't.

11 Q. You know today of course?

12 A. Yes. I know it today.

13 Q. Did you have any further contact with
14 the Ayer Police Department after testifying at
15 the motion for a new trial in 1985?

16 A. I don't believe.

17 Q. Did you have some contact with the
18 Waters family after 1985?

19 A. I believe so.

20 MR. TEHAN: Let me mark as Exhibit
21 Three the following document.

22 (Exhibit No. 3, Affidavit of
23 Roseanna Perry; so marked) .

1 Q. Would you please look over what we
2 have marked as Exhibit Three, Ma'am, and read
3 the entire thing to yourself if you would? Take
4 your time and then I will ask you some
5 questions.

6 A. Sure. This is a lie.

7 Q. What are you referring to when you say
8 that?

9 A. Most of it.

10 Q. We'll get to it then. Please continue
11 to review it.

12 A. Oh, come on. What? This is just --
13 wow, that makes for a good book.

14 Q. Fictional?

15 A. That is incredible.

16 Q. Let's talk about it. First of all,
17 prior to today have you ever seen Exhibit Three?

18 A. No.

19 Q. When did you first learn that Miss
20 Waters was bringing a civil suit for money
21 damages on behalf of her late brother, Kenny?

22 A. I really didn't learn it until quite
23 recently.

1 A. Okay.

2 Q. By the way, before we get to that
3 actually, having never seen this Affidavit which
4 is Exhibit Three you have never signed it, have
5 you?

6 A. No.

7 Q. You never would, would you?

8 A. No, I certainty would not.

9 Q. Within a day or two after learning of
10 DNA tests that led to the release of Kenny
11 Waters I spoke with his lawyers Barry Scheck and
12 Betty Anne Waters who is also Kenny's sister.

13 Was it within a day or two after
14 learning of Kenny's release that you had this
15 meeting?

16 A. No, I don't believe so.

17 Q. Was it longer than that?

18 A. Yes, I believe so.

19 Q. The next sentence says that Mr. Scheck
20 and I spoke by phone and during the course of
21 the conversation he told me that I should tell
22 the truth no matter what it is and it would be
23 wise to seek the counsel of a lawyer because I

1 Q. Did anyone ever present this Affidavit
2 to you for signature?

3 A. No.

4 Q. After the meeting with Mr. Scheck have
5 you ever spoken with him again?

6 A. No.

7 Q. After that meeting with Mr. Scheck and
8 Miss Waters have you ever spoken with Betty Anne
9 again?

10 A. I don't recall.

11 Q. When you had this meeting did either
12 of them tell you what they wanted or hoped you
13 would say?

14 MR. FELDMAN: Objection.

15 A. Should I talk?

16 Q. Yes, you may.

17 A. Well, the impression I got was they
18 wanted me to say I lied.

19 Q. What gave you that impression?

20 A. Just really by the way they were
21 talking. You know he's innocent. You know he's
22 innocent. And I don't care to this day. He
23 said that to me. And in my eyes he will never

1 be innocent. I don't care what the evidence
2 says. He told me that and I will never ever
3 take that back.

4 Q. Did you feel pressured by Mr. Scheck
5 and Betty Anne Waters when they met with you?

6 MR. FELDMAN: Objection.

7 A. Yes.

8 Q. What did they do or say that made you
9 feel pressured?

10 A. Just their presence was a lot of
11 pressure for me.

12 Q. Did you feel that day you were telling
13 them what they wanted to hear so they would go
14 away?

15 A. Yes. But in terms of this, that would
16 not even make for a good book.

17 Q. Exhibit Three?

18 A. Exhibit Three.

19 Q. Because it's so full of falsehoods?

20 A. I mean, that doesn't even sound like
21 something I would say. That doesn't even sound
22 like me.

23 Q. Have you had any contact with Betty

1 Q. Specifically you understood Rose
2 wanted you to say that at some point members of
3 the Ayer Police Department --

4 A. Yes, exactly.

5 Q. -- had said to you that you could be
6 arrested if you didn't cooperate with them --

7 A. Exactly.

8 Q. -- in connection with the Brow murder
9 investigation?

10 A. Yes.

11 Q. You know who I mean by Brow, the
12 victim of the 1980 murder in Ayer?

13 A. Yes.

14 Q. Just to make sure we're on the same
15 page, other than your daughter, Rose --

16 A. Can I ask you something? What do you
17 mean in connection? I didn't even know Kenny
18 back then.

19 Q. Yes. Right. So you didn't know Kenny
20 back at the time that Miss Brow was murdered?

21 A. Right. I didn't even know them people
22 until they all moved into the projects.

23 Q. But other than your daughter, Rose,

1 saying to you that you should testify some day
2 that the Ayer Police Department threatened to
3 arrest you for some crime, other than Rose
4 telling you you should testify to that, you have
5 felt no pressure or any other contact from
6 anyone --

7 A. No. Just that one guy. He would sit
8 outside my house for hours. That was only a
9 couple years ago.

10 Q. Did that make you feel -- were you
11 intimidated by that?

12 A. I was very intimidated. Then he
13 called me up. Was it you?

14 Q. It was not me.

15 A. He called me up and he says, your
16 daughter was so kind to give me your phone
17 number.

18 Q. Does the name John Nardizzi ring a
19 bell?

20 A. That does sound familiar.

21 Q. Did the person represent himself as a
22 private investigator?

23 A. Yes.

1 Q. He told you he had to ask you some
2 questions about what happened?

3 A. Yeah. And I could not believe it. He
4 got my new phone number. And he called me up
5 and said my daughter, Rosie, was so kind to give
6 him my phone number.

7 And I told him, I said, let me
8 tell you something right now. There is not a
9 kind bone in my daughter's body. And I was very
10 upset.

11 Q. Miss Baggesen, when was the last time
12 anyone, any member of the Waters family had
13 direct contact with you?

14 A. Barry Scheck. With Barry Scheck.

15 Q. The meeting with Betty Anne Waters and
16 Barry Scheck?

17 A. Yes, I believe so.

18 Q. Other than you was there anyone else
19 present during that meeting other than Scheck,
20 Betty Anne Waters and yourself?

21 A. My daughter, Rosie. She was in the
22 other room. Kids everywhere.

23 Q. Was there anybody else accompanying

1 learned Kenny was released from prison that you
2 felt threatened or pressured by the Ayer Police
3 Department?

4 A. No.

5 Q. Because that would have been untrue,
6 right?

7 A. (No response).

8 Q. Did you ever meet with an individual
9 by the name of Michael Andrews?

10 A. Not that I know of.

11 Q. An attorney from Boston, does that
12 ring a bell?

13 A. No.

14 Q. You never met with Attorney Michael
15 Andrews and an investigator at your daughter's
16 house at 57 Wisdom Avenue? That was your
17 daughter's house?

18 A. Not that I recall.

19 Q. Do you think it's possible that in
20 fact you had such a meeting, you just don't
21 remember it?

22 A. No.

23 Q. When was the last time you talked to

1 Nancy Taylor?

2 A. After the trial.

3 Q. Immediately after the trial, the
4 dinner that you mentioned?

5 A. And before I went home.

6 Q. You haven't talked to her in the last
7 ten years?

8 A. No.

9 Q. Have you talked to anyone from the
10 Ayer Police Department?

11 A. No. I believe I did call the Ayer
12 Police Department, this is going back some
13 years, when I heard he might be being released
14 or something.

15 Q. Tell me about that conversation.

16 A. I can't really recall it. All I did
17 was call. I didn't even really talk to anybody.

18 Q. So you don't remember any specifics of
19 that conversation?

20 A. No.

21 Q. Suffice it to say you didn't want
22 Kenny Waters to get out of prison?

23 A. Suffice it to say very true.

1 Q. So if I were to tell you that there is
2 a record of an interview with you on March 23,
3 2001, Friday, when Mike Andrews and an
4 investigator met you at your daughter's home at
5 57 Wisdom Avenue where you relayed some
6 information to him --

7 A. I have no recollection of that.

8 Q. He is a tall guy, sort of thinning
9 hair, blondish hair?

10 A. I have no recollection of it.

11 Q. You don't remember telling this
12 attorney and this investigator that you believe
13 you were dragged into the whole matter because
14 of Kenny's former girlfriend, Brenda?

15 A. I don't recall it.

16 Q. Do you remember saying all that I know
17 is the District Attorney's office hunted me down
18 like a dog?

19 A. I don't recall that.

20 Q. You don't recall saying that to an
21 attorney from Boston?

22 A. I don't even recall talking to an
23 attorney from Boston.

1 Q. You don't remember relaying the
2 information about drinking booze in a funnel to
3 this attorney from Boston?

4 A. No, I don't remember that. What was
5 the date?

6 Q. March 23, 2001. Do you remember the
7 information in your Affidavit, Miss Baggesen,
8 this information on Exhibit Three? This is an
9 Affidavit that you didn't sign. Do you remember
10 you reviewed this with Attorney Tehan? It has a
11 lot of specific information in it.

12 A. That we reviewed here today?

13 Q. Yes.

14 A. Yeah.

15 Q. And you were chuckling as you were
16 reading it because you had called it fiction or
17 a good novel?

18 A. Yeah, a lot of it.

19 Q. You never provided the kind of
20 information that was --

21 A. I don't recall this.

22 Q. You may have, right?

23 MR. TEHAN: Objection.

1 A. I don't recall.

2 Q. You may have in fact told Attorney
3 Mike Andrews in sum and substance exactly what's
4 written in this draft Affidavit, right?

5 MR. TEHAN: Objection.

6 A. I don't recall.

7 Q. Because you didn't tell Barry Scheck
8 all that detailed information, did you?

9 A. I don't recall. There was so much
10 going on in my life. I just lost my mother.

11 Q. So you -- I'm just --

12 A. I don't recall everything that was
13 said. I really don't.

14 Q. Okay.

15 A. I was distraught that Barry Scheck was
16 even in my house.

17 Q. Why were you distraught about that?

18 A. Because why would I want him in my
19 house? What was I supposed to do, jump up for
20 joy? How long do you think -- how long -- if
21 he didn't die like he did, God forbid, but I
22 mean, I wouldn't even be sitting here today.

23 And that's the truth. If he didn't die I

1 wouldn't be sitting here. Not at all.

2 Q. Why are you telling me that? Are you
3 telling me that because you may have said the
4 things that are in this Affidavit again to
5 protect your personal safety?

6 MR. TEHAN: Objection.

7 A. In this Affidavit?

8 Q. Yeah.

9 A. I don't even -- some of this is --

10 MR. TEHAN: That's Exhibit Three
11 by the way.

12 MR. FELDMAN: Yes, the draft
13 Affidavit is Exhibit Three.

14 Q. Let me read paragraph 13, Miss
15 Baggesen, as an example. I think you may have
16 discussed this with Attorney Tehan.

17 Paragraph 13 says, after a long
18 time of further questioning I told them that I
19 remembered one night Kenny and I were drinking
20 in a van when the subject of Kenny being
21 questioned in Ayer about the murder came up, but
22 I really didn't remember what he said because we
23 were both plastered, really drunk. Do you see

1 that?

2 A. Yes, I see that.

3 Q. It goes on to say, I believe we
4 finished a whole bottle of Southern Comfort.

5 All that is consistent with what you told
6 Attorney DeSimone, right?

7 A. Yes.

8 Q. Then it says, I have never been sure
9 what Kenny said that night because I was so
10 drunk. I told Nancy Taylor repeatedly I wasn't
11 sure what he said. I certainly never had a
12 clear memory of him confessing that he committed
13 this murder, but Nancy Taylor kept pushing me to
14 remember what he might have said about
15 confessing to the murder. She was very
16 overbearing and forceful. I really thought I
17 was going to be arrested and charged. Do you
18 see all that?

19 A. Well, I did not say that.

20 Q. You're positive you never told this to
21 anyone?

22 A. Yeah. I'm -- yeah.

23 Q. What makes you sure that you never

1 said that to anyone, Miss Baggesen?

2 A. Because I'm not going to lie. He said
3 it to me. He said it to me. And I will never
4 take it back. That's what he said. And I'm not
5 going to lie. I could have made all of this go
6 away by lying and saying okay, he didn't say it.

7 Q. In fact you tried to make it go away?

8 A. I could have saved myself a whole lot
9 of grief, but the fact of the matter is he said
10 he did it.

11 Q. But in 1983 on July 15 when Herbert
12 DeSimone asked you about it you did lie and try
13 to make it go away, correct?

14 MR. TEHAN: Objection.

15 A. I guess so.

16 Q. In 2001 --

17 A. I really -- 1985, I can't --

18 Q. In 2001 when attorneys came to meet
19 with you asking you about what happened you lied
20 again, right?

21 MR. TEHAN: Objection.

22 A. No.

23 Q. No?

1 A. When Barry Scheck came?

2 Q. How about when Mike Andrews came to
3 interview you?

4 A. I have no idea who Mike Andrews is.

5 Q. How about when Barry Scheck came to
6 your home?

7 A. I remember Betty Anne and Barry
8 Scheck. I have no idea who Mike Andrews is.

9 Q. When Barry Scheck and Betty Anne
10 Waters came to your house did you tell them that
11 Kenny confessed to you?

12 A. Yes. Oh, I don't recall if I told
13 them that.

14 Q. In fact, you didn't tell them that,
15 right?

16 A. Ah, because Kenny was out in the
17 streets.

18 Q. So because again you were concerned
19 about your personal safety you told them what
20 they wanted to hear?

21 A. Kind of, yes.

22 Q. And in essence you told them what was
23 in this draft Affidavit --

1 A. What's in this, this is garbage.

2 MR. TEHAN: What is this please,

3 Ma'am, for the record? What's the blue sticker
4 say?

5 A. Exhibit Three.

6 MR. TEHAN: Thank you.

7 A. This is garbage.

8 Q. That's what you told them, you told
9 them garbage.

10 A. I mean, this is garbage.

11 Q. Miss Baggesen, the information in the
12 Affidavit that you're reviewing now, Exhibit
13 Three, it's garbage. Is that what you're
14 telling us?

15 A. A lot of it, yes.

16 Q. Do you know where this was created,
17 this draft Affidavit, who created it?

18 A. No.

19 Q. Do you know where the person who
20 created this draft Affidavit for your signature
21 would have learned information about you and
22 Kenny doing funnel drinks?

23 A. Everybody was doing it. Betty Anne

1 was there, all the sisters, all the brothers,
2 the neighbors.

3 Q. So you never told Barry Scheck that
4 you guys used to do funnel drinks?

5 A. We didn't always do it. I did it that
6 one time. Why would I even say that?

7 Q. You didn't tell Attorney Mike Andrews
8 that either?

9 A. Why would I say that?

10 Q. I'm just asking if you did or did not.

11 A. I don't know who that Attorney Andrews
12 is.

13 Q. Okay. How about the information
14 regarding the dinner you went on with Nancy
15 Taylor and the person you believed to be her
16 husband, where did that information come from?

17 MR. TEHAN: Objection.

18 A. Probably from me. I probably said we
19 went for dinner. I certainly didn't say a fancy
20 restaurant or Nancy's husband argued with Nancy.

21 Q. Miss Baggesen, I'm trying to
22 understand whether you believe someone made up
23 the information --

1 statement that my mother gave me to read, did
2 you ever give that to Rose to read?

3 A. No.

4 Q. Are you sure?

5 A. I believe I've never seen this until
6 today.

7 Q. Well Rose says, I read the statement
8 and said okay. That was all the truth. Why
9 don't you sign it and get it over with? Did
10 Rose say that to you?

11 A. No.

12 Q. She said, meaning you said, she said
13 she was afraid to sign it because she was sure
14 she would go to jail for perjury.

15 A. My daughter is a bold-faced liar.

16 Q. She goes on to say, she said why would
17 Kenny's lawyers tell her to get a lawyer unless
18 she could get into trouble? Did Mr. Scheck or
19 Mike Andrews or anyone tell you to get a lawyer?

20 A. No.

21 Q. She also said this to other people in
22 my presence including my friend, Pam Sivo.

23 A. How convenient. How did I know Pammy

1 time. It's a little bit longer paragraph.

2 A. No.

3 Q. So is there a particular sentence in
4 paragraph 6 that you believe --

5 A. She and the male officer began telling
6 me that he hung his former girlfriend out a
7 window. I forgot how I found out about that.

8 At one time that while in jail he
9 had slashed the throat of another prisoner
10 killing him. Is that really true?

11 Q. For now I want to focus on whether or
12 not you might have been the source of the
13 information.

14 A. No.

15 Q. Do you know what I mean by source of
16 the information, the reason why someone wrote
17 this Affidavit for you to review and sign is
18 because you told them this information.

19 A. I did not tell them that.

20 Q. You don't believe you told anyone this
21 information?

22 A. No.

23 Q. You didn't tell Mike Andrews this

1 information?

2 A. No. I don't even know who Mike
3 Andrews is.

4 Q. You didn't tell any attorney who came
5 down to speak with you from Boston this
6 information, right?

7 A. I don't believe.

8 Q. Or might you have?

9 MR. TEHAN: Objection. That's
10 speculation.

11 A. No.

12 Q. Well, I want to make sure particularly
13 in light of the objection we're making a
14 distinction between what you're sure and what
15 you're not.

16 You're sure that the information
17 in paragraph 6 was not provided by you to any
18 attorney who you discussed the Waters matter
19 with?

20 A. I'm sure.

21 Q. You are sure?

22 A. I never.

23 Q. Is there anything in particular about